

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS

Timothy Alan Latner v. Eric Guerrero

Civil Action No. H-24-04837 · No. H-24-04837 · Decided December 19, 2025

SUMMARY

The United States District Court for the Southern District of Texas dismissed Timothy Alan Latner’s 28 U.S.C. § 2254 petition challenging his Texas aggravated-sexual-assault convictions. The court held that the petition was barred by AEDPA’s one-year statute of limitations, rejected statutory and equitable tolling arguments including actual innocence, dismissed the petition with prejudice, and denied a certificate of appealability.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas
WRITING FOR THE COURT	Andrew S. Hanen
JURISDICTION	United States District Court for the Southern District of Texas, Houston Division
DECIDED	December 19, 2025
DOCKET	H-24-04837
DISPOSITION	dismissed
PROCEDURAL POSTURE	Federal habeas corpus petition challenging state conviction
PRECEDENTIAL VALUE	unpublished
PARTIES	Timothy Alan Latner v. Eric Guerrero

TOPICS

- federal habeas corpus
- state post-conviction relief
- habeas corpus
- statute of limitations
- actual innocence

PRACTICE AREAS

- habeas corpus
- federal habeas corpus
- post-conviction relief

QUESTIONS PRESENTED

- Whether the federal habeas corpus petition is barred by the one-year statute of limitations under 28 U.S.C. § 2244(d)

2. Whether the petitioner has demonstrated actual innocence to overcome the statute of limitations

HOLDINGS

1. The petition is time-barred because it was filed on December 4, 2024, well after the one-year limitations period expired on April 5, 2021.
2. Equitable tolling does not apply because the petitioner has not shown extraordinary circumstances or diligent pursuit of his rights.

KEY QUOTATIONS

“A ‘garden variety claim of excusable neglect’ does not support equitable tolling.”

“Absent evidence in the record, a court cannot consider a habeas petitioner’s bald assertions on a critical issue in his pro se petition (in state and federal court), unsupported and unsubstantiated by anything else contained in the record, to be of probative evidentiary value.”

FACTUAL BACKGROUND

Petitioner Timothy Alan Latner was convicted in 2018 of two counts of aggravated sexual assault of a child and sentenced to two life sentences. His convictions were affirmed on direct appeal in 2020. He filed a state habeas application in July 2024, which was denied by the Texas Court of Criminal Appeals in November 2024.

PROCEDURAL HISTORY

Petitioner was convicted of two charges of aggravated sexual assault of a child in state court. His convictions were affirmed on direct appeal. He filed a state habeas application in 2024, which was denied. He then filed this federal habeas petition in December 2024.

DISPOSITION

dismissed

CASES CITED

- Roberts v. Cockrell, 319 F.3d 690 (5th Cir. 2003)
- Scott v. Johnson, 227 F.3d 260 (5th Cir. 2000)
- Irwin v. Department of Veterans Affairs, 498 U.S. 89 (1990)
- Davis v. Johnson, 158 F.3d 806 (5th Cir. 1998)
- Howland v. Quarterman, 507 F.3d 840 (5th Cir. 2007)
- Holland v. Florida, 560 U.S. 631 (2010)
- Pace v. DiGuglielmo, 544 U.S. 408 (2005)
- Lookingbill v. Cockrell, 293 F.3d 256 (5th Cir. 2002)
- Felder v. Johnson, 204 F.3d 168 (5th Cir. 2000)
- McQuiggin v. Perkins, 569 U.S. 383 (2013)

- Schlup v. Delo, 513 U.S. 298 (1995)
- Dowhitt v. Johnson, 230 F.3d 733 (5th Cir. 2000)
- Ross v. Estelle, 694 F.2d 1008 (5th Cir. 1983)
- Koch v. Puckett, 907 F.2d 524 (5th Cir. 1990)
- Tennard v. Dretke, 542 U.S. 274 (2004)
- Slack v. McDaniel, 529 U.S. 473 (2000)
- Miller-El v. Cockrell, 537 U.S. 322 (2003)
- Alexander v. Johnson, 211 F.3d 895 (5th Cir. 2000)
- Latner v. State, Nos. 9-18-00117-CR & 09-18-00118-CR, 2020 WL 1036446 (Tex. App.—Beaumont March 4, 2020, no pet.)

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